IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

SPL. APPL. WRIT No. 339 of 2003

SMT.KULSUM W/O SHRI MEHMOOD
V/S
STATE & ORS.

Mr. JP JOSHI, for the appellant / petitioner

Mr. BL BHATI DY.G.A. & Mr. SUDHIR SHARMA, for the respondent

Date of Order : 29.10.2007

HON'BLE SHRI N P GUPTA,J.
HON'BLE SHRI MUNISHWAR NATH BHANDARI,J.

ORDER

Heard learned counsel for the parties.

By this appeal, the appellant seeks to challenge the order of the learned Single Judge dt. 14.3.2001 whereby the petitioner's writ petition was dismissed relying upon the judgment of this Court in Gurnam Singh Vs. State of Rajasthan reported in 1999(3) RLW-1685.

Learned counsel for the appellant submits that that was a case where the land was transferred by a person belonging to scheduled caste to another person not belonging to scheduled caste, while in the present case the petitioner had professed Islam, and had transferred the land to another person professing Islam, regarding which the prohibition of Section 42 of the Rajsthan Tenancy Act is not attracted. For this purpose he relies upon a

Division Bench judgment of this Court passed in D.B. Civil Writ Petition No.1861/1980 Brij Lal & Anr. Vs. Board of Revenue, Ajmer & Ors., decided on 9.3.1990. It is informed by the learned counsel that this judgment has been upheld by Hon'ble the Supreme Court as well.

We have gone through the judgment in Brijlal's case. Brijlal's case was a case where the person concerned had converted to Christianity. Conversion to Christianity, or to Islam, for the purpose of Section 42 of the Rajasthan Tenancy Act, obviously stand at par.

In that view of the matter the controversy involved in the present appeal is squarely covered by the judgment of Division Bench of this Court in Brijlal's case.

Accordingly, the appeal is allowed. The impugned orders of the learned Single Judge, so also of the Board of Revenue are set aside.

(MUNISHWAR NATH BHANDARI),J. (N P GUPTA),J.

/sushil/